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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,940	09/24/2001	Stephen George Edward Barker	GJE-75	4604

23557 7590 02/28/2002

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EXAMINER

MATHEW, FENN C

ART UNIT PAPER NUMBER

3764

DATE MAILED: 02/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/889,940

Applicant(s)

BARKER, STEPHEN GEORGE
EDWARD

Examiner

Fenn Mathew

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- ☐ Interview Summary (PTO-413) Paper No(s) _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

This office action is responsive to the preliminary amendment filed on 7/25/2001. As directed by the amendment, claims 1-10 were canceled, and claims 11-30 were added. No claim was amended, therefore claims 11-30 are pending in this application.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-20 and 25-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 12-13, 15, 17, and 19, applicant has contradicted their own claims. Claims 12-13 describe an enclosure that is gas-impermeable, while dependant claims 15, 17, and 19 describe a device with means for venting gases through enclosure.

The terms "...has a soft feel..." in claim 25 and "...at least partially transparent..." in claim 26 are relative terms which render the claims indefinite. The terms "...has a soft feel..." and "...at least partially transparent...." are not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Regarding claims 27-30, it has been held that to be entitled to weight in method claims, the recited structure limitations therein must affect the method in a manipulative

sense, and not to amount to the mere claiming of a use of a particular structure. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 11, 21-22, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Andrews et al. (U.S. Patent No. 5,437,621) Andrews et al. discloses a multi-layer medical dressing, including a non-adherent first layer (50) comprising a porous polyethylene film which draws moisture away from the injury, a middle layer (52) comprising an absorbent material for absorbing moisture from the first layer, and a third outer layer (54) comprising a flexible, waterproof and breathable polyurethane film which prevents exposure to outside contaminants while also preventing leakage of moisture from the injury. Furthermore, the device includes an adjustable fastening means in the form of hook and loop fasteners (32, 34) in order to secure the dressing to the user. Andrews et al. describe dressings formed in the shape of a medical wrap, a mitten, and a boot.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12-13 and 15-18, are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. Regarding claims 12-13, Andrews et al. discloses the claimed invention except for the dressing being gas-impermeable. It would have been an obvious matter of design choice to make the dressing gas-impermeable, since applicant has not disclosed that making the device gas impermeable is for any particular purpose, and it appears that the invention would perform equally well with the breathable outer layer of the device taught by Andrews et al.

Regarding claims 15-18, Andrews et al. disclose the claimed invention except for a venting means comprising an active filter. Andrews et al. teach use of breathable material allowing for gases to pass through. It would have been obvious to one having ordinary skill in the art at the time of invention to substitute an active filter for the breathable material taught by Andrew et al. as an alternative means of allowing air or other gases to be filtered through the medical dressing.

Claims 14, 19-20, and 27-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Weber et al. (U.S. Patent No. 5,161,686) Andrews et al. disclose the claimed device except for an odor-absorbent layer. Weber et al. teaches of an odor-absorbing web material (55). It would have been obvious to one skilled in the art at the time of invention to add a layer of odor absorbing material as taught by Weber et al. to the medical dressing disclosed by Andrews et al. in order to contain odors emanating from a wound of a user.

Regarding claims 19-20, Andrews et al. in view of Weber et al. disclose the claimed invention except for a venting means comprising an active filter. Andrews et al. do teach use of breathable material allowing for gases to pass through. It would have been obvious to one having ordinary skill in the art at the time of invention to substitute an active filter for the breathable material taught by Andrew et al. as an alternative means of allowing air or other gases to pass through the medical dressing.

Regarding claims 27-30, Andrews et al. in view of Weber et al. have disclosed the claimed structure. It would have been obvious to one skilled in the art upon seeing the modified Andrews device to perform the recited method steps.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Eischen, Sr. (U.S. Patent No. 5,868,690). Andrews et al. discloses the claimed invention except for a nonslip sole. Eischen, Sr. teaches an inflatable boot (110) with neoprene tread (176) on the sole. It would have been obvious to one skilled in the art at the time of invention to provide Andrews' boot with a nonslip sole as taught by Eischen et al. in order to provide a safety measure to prevent slipping by a user walking, while wearing the boot shaped medical dressing.

Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Andrews et al. in view of Augustine (U.S. Patent No. 5,947,914). Andrews et al. disclose the claimed invention except for a burstable sachet within the enclosure comprising an agent suitable for treating burns. Augustine teaches a wound covering with a cellular structure forming a reservoir for the storage and release of medicaments. It would have been obvious to one skilled in the art at the time of invention to combine the wound

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covering taught by Augustine with the medical dressing disclosed by Andrews et al. in order to provide a means to administer medication to a burn while being protected by a medical dressing.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Poenitsch U.S. Patent No. 4,649,910

Kelly et al. U.S. Patent No. 5,342,286

Berguer et al. U.S. Patent No. 5,403,265

Ibrahim et al. U.S. Patent No. 5,711,760

Raimondo U.S. Patent No. 5,919,180

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fenn Mathew whose telephone number is (703) 305-2846. The examiner can normally be reached on Monday - Friday 9:00am - 5:30pm.

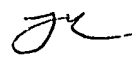
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeanette Chapman can be reached on (703) 308-1310. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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fcm
February 11, 2002


JUSTINE R. YU
PRIMARY EXAMINER

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in ABANDONMENT of the application.